

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KEVIN DUVALLE BLACK,
Plaintiff,

v.

BRIAN WILLIAMS, *et al.*,
Defendants.

Case No. 2:11-CV-00212-APG-CWH

ORDER

(Dkt. #60)

Defendant Canute Brown moves for summary judgment on the only remaining claim at issue in this case. Brown argues plaintiff Kevin Duvalle Black failed to respond to defendants' Requests for Admissions and Black therefore admitted Brown is not liable. Black responds that evidence, such as testimony from other witnesses and video surveillance, would show Brown violated his rights. Black states he has two supporting affidavits from witnesses who would testify that he was not resisting Brown on the date in question, but he has not provided those affidavits to the Court.

The facts of this case and the summary judgment standard are set forth in a prior Order (Dkt. #58), and I will not repeat them here. As relevant to this motion, Black alleges Brown violated Black's First Amendment rights when Brown refused to allow Black to attend religious services. (Dkt. #6 at 4-5.) During discovery, defendants sent Black Requests for Admissions, to which Black did not respond. (Dkt. #60-3.) Defendants requested Black respond to the Requests a second time, but Black did not reply. (Dkt. #60-5.) Pursuant to Federal Rule of Procedure 36(a)(3) and (b), Black's failure to timely respond to the Requests for Admissions results in the following facts being conclusively established about the incident in question:

- Black suffered no injuries;
- Black incurred no damages;
- no defendant is liable for any damages; and

1 · Black suffered no detriment or hardship.
2 (Dkt. #60-3.)

3 Defendant Brown has met his initial burden of establishing no genuine issue of material
4 fact remains and he is entitled to judgment as a matter of law under Federal Rule of Civil
5 Procedure 56. Brown has pointed out that Black will not be able to establish Black suffered any
6 injury for which Brown is liable. Because Black failed to respond to the Requests for
7 Admissions, Black is deemed to admit that (1) he suffered no injuries, detriment, or hardship; (2)
8 he incurred no damages; and (3) Brown is not liable. Black made no effort to withdraw or amend
9 these admissions. Moreover, although Black contends he has affidavits from other witnesses
10 about the incident, he has not provided them to Brown or to the Court and discovery is now
11 closed. As a result, I will grant Brown's motion. *See In re Healthcentral.com*, 504 F.3d 775, 788
12 (9th Cir. 2007) (stating that if the moving party meets its initial burden, the opposing party must
13 "come forward with its own significant and probative evidence showing a genuine issue of
14 material fact as to the relevant claims or defenses").

15 IT IS THEREFORE ORDERED that Defendant Canute Brown's Motion for Summary
16 Judgment (Dkt. #60) is hereby GRANTED.

17 IT IS FURTHER ORDERED that the clerk of court is directed to enter Judgment in favor
18 of Defendants Canute Brown and Francisco Sanchez and against Plaintiff Kevin Duvalle Black
19 pursuant to this Order and my prior Order (Dkt. #58).

20 DATED this 9th day of January, 2015.

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23 ANDREW P. GORDON
24 UNITED STATES DISTRICT JUDGE
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